

Appendix B

Associated Applicable Laws

Disclaimer: *The following pertain only to Federal statutes and is not an exhaustive list of regulations and requirements. Appropriate State and/or local permitting agencies should be contacted regarding any additional requirements. For more information, refer to the statute or regulation.*

Clean Air Act Section 309: Specifies EPA's duty to comment on environmental impacts.

Clean Water Act Section 401, Water Quality Certification: Begin with final COE permit application by submitting necessary information to Regional Water Quality Control Board (State of California); 60 days for certification. (Note: Waivers are no longer being issued.)

Comprehensive Environmental Response, Compensation and Liability Act: Concerns hazardous wastes. Should consult with U.S. EPA and State counterpart as soon as contaminants are identified.

Council on Environmental Quality (CEQ) Regulations Section 1502.13: *Purpose and need.* The statement shall briefly specify the underlying purpose and need to which the Project Sponsor is responding in proposing the alternatives, including the proposed action.

Coastal Zone Management Act: Through the California Coastal Commission and S.F. Bay Conservation and Development Commission, the work must be consistent with California's Coastal Zone Management Plan. Begin application when complete CWA Section 404 permit submitted to COE.

Department of Transportation Act (DOTA) of 1966 Section 4(f): Administered by FHWA. When a project uses land protected by Section 4(f), a Section 4(f) evaluation must be prepared.

Endangered Species Act Section 7: 135 days for formal consultation; begin formal consultation at Checkpoint #3; informal can be done anytime prior. Responsibility of the lead Federal agency to initiate formal consultation. Informal consultation can be done by the lead federal agency's designee (Project Sponsor) *typically beginning at the Programming Process.*

- Consultation is with the U.S. FWS for all listed species except marine species and anadromous fish.
- Consultation is with the NMFS for listed marine species and anadromous fish.

Farmland Protection Policy Act: The Natural Resources Conservation Service (NRCS) fills out Form AD 1006 that identifies prime and unique farmland and other farmland of Statewide or local importance. This should be requested of the NRCS once alternatives are identified.

Fish and Wildlife Coordination Act: Requires the federal lead agency to consider and address comments by the U.S. Fish and Wildlife Service and the California Department of Fish and Game whenever waters of any stream or other body of water is proposed to be controlled or modified. Initiation would be during the scoping process and continuing through comments on the FEIS.

Magnuson-Stevens Fishery Conservation and Management Act: Requires the lead agency to consult with the National Marine Fisheries Service if there will be adverse impacts to Essential Fish Habitat. Covers virtually all coastal waters and inland waters below major dams or significant waterfalls. Consultation should begin no later than at distribution of the DEIS.

Marine Protection, Research and Sanctuaries Act (Marine Sanctuaries): Administered by Department of Commerce for designation of sanctuaries in ocean and other tidal areas.

Marine Protection, Research and Sanctuaries Act (Ocean Dumping): Administered by the U.S. Environmental Protection Agency. Involves the regulation of dumping of any material into ocean waters.

Migratory Bird Treaty Act: Prohibits the take of migratory birds, body parts (e.g., feathers), eggs or occupied nests. A permit from the U.S. Fish and Wildlife Service is required for such a take. If take cannot be avoided by working in the non-nesting habitat, mechanical/physical means to discourage nesting, etc., may be proposed. A permit should be sought from FWS as soon as alternatives are identified.

National Historic Preservation Act Section 106: The lead Federal agency is responsible for consultation. Begin consultation during preparation of the draft environmental document.

Resource Conservation and Recovery Act: Concerns hazardous wastes. Should consult with U.S. EPA and State counterpart as soon as contaminants identified.

Rivers and Harbors Appropriation Act of 1899 Section 10: COE permit for any work in navigable waters. Initiate when submitting complete CWA Section 404 permit.

Wild and Scenic Rivers Act: Administered by U.S. Department of Agriculture (e.g., Forest Service,) and U.S. Department of the Interior (e.g., Park Service, Fish and Wildlife Service, Bureau of Land Management) and is intended to preserve free-flowing rivers and maintaining water quality of designated and study rivers. Consultation should be done as early as possible in the process with the appropriate "Keeper of the River".